

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MALIBU MEDIA, LLC,

Plaintiff,

vs.

JOHN DOE subscriber assigned IP address
66.108.172.193,

Defendant.

X : 15 CV 1830
Civil Action No.

COMPLAINT – ACTION FOR
DAMAGES FOR PROPERTY
RIGHTS INFRINGEMENT

JUDGE CROTTY

Plaintiff, Malibu Media, LLC, sues Defendant John Doe subscriber assigned IP address 66.108.172.193, and alleges:

Introduction

1. This matter arises under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the “Copyright Act”).

2. Defendant is a persistent online infringer of Plaintiff’s copyrights. Indeed, Defendant’s IP address as set forth on Exhibit A was used to illegally distribute each of the copyrighted movies set forth on Exhibit B.

3. Plaintiff is the registered owner of the copyrights set forth on Exhibit B (the “Copyrights-in-Suit”).

Jurisdiction And Venue

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair competition).

5. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that the Defendant's acts of copyright infringement occurred using an Internet Protocol address ("IP address") traced to a physical address located within this District, and therefore this Court has personal jurisdiction over the Defendant because (i) Defendant committed the tortious conduct alleged in this Complaint in this State, and (ii) Defendant resides in this State and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.

6. Based upon experience filing over 1,000 cases the geolocation technology used by Plaintiff has proven to be accurate to the District level in over 99% of the cases.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this State; additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because Defendant or Defendant's agent resides or may be found in this District.

Parties

8. Plaintiff, Malibu Media, LLC, (d/b/a "X-Art.com") is a limited liability company organized and existing under the laws of the State of California and has its principal place of business located at 409 W. Olympic Blvd., Suite 501, Los Angeles, CA, 90015.

9. Plaintiff only knows Defendant by his, her or its IP Address. Defendant's IP address is set forth on Exhibit A.

10. Defendant's Internet Service Provider can identify the Defendant.

Factual Background

I. Defendant Used the BitTorrent File Distribution Network To Infringe Plaintiff's Copyrights

11. The BitTorrent file distribution network ("BitTorrent") is one of the most common peer-to-peer file sharing systems used for distributing large amounts of data, including, but not limited to, digital movie files.

12. BitTorrent's popularity stems from the ability of users to directly interact with each other in order to distribute a large file without creating a heavy load on any individual source computer and/or network. The methodology of BitTorrent allows users to interact directly with each other, thus avoiding the need for intermediary host websites which are subject to DMCA take down notices and potential regulatory enforcement actions.

13. In order to distribute a large file, the BitTorrent protocol breaks a file into many small pieces called bits. Users then exchange these small bits among each other instead of attempting to distribute a much larger digital file.

14. After the infringer receives all of the bits of a digital media file, the infringer's BitTorrent client software reassembles the bits so that the file may be opened and utilized.

15. Each bit of a BitTorrent file is assigned a unique cryptographic hash value.

16. The cryptographic hash value of the bit ("bit hash") acts as that bit's unique digital fingerprint. Every digital file has one single possible cryptographic hash value correlating to it. The BitTorrent protocol utilizes cryptographic hash values to ensure each bit is properly routed amongst BitTorrent users as they engage in file sharing.

17. The entirety of the digital media file also has a unique cryptographic hash value ("file hash"), which acts as a digital fingerprint identifying the digital media file (e.g. a movie). Once infringers complete downloading all bits which comprise a digital media file, the

BitTorrent software uses the file hash to determine that the file is complete and accurate.

18. Plaintiff's investigator, IPP International UG, established a direct TCP/IP connection with the Defendant's IP address as set forth on Exhibit A.

19. IPP International UG downloaded from Defendant one or more bits of each of the digital movie files identified by the file hashes on Exhibit A.

20. Defendant downloaded, copied, and distributed a complete copy of Plaintiff's movies without authorization as enumerated on Exhibit A.

21. Each of the cryptographic file hashes as set forth on Exhibit A correlates to a copyrighted movie owned by Plaintiff as identified on Exhibit B.

22. IPP International UG downloaded from Defendant one or more bits of each file hash listed on Exhibit A. IPP International UG further downloaded a full copy of each file hash from the BitTorrent file distribution network and confirmed through independent calculation that the file hash matched what is listed on Exhibit A. IPP International UG then verified that the digital media file correlating to each file hash listed on Exhibit A contained a copy of a movie which is identical (or alternatively, strikingly similar or substantially similar) to the movie associated with that file hash on Exhibit A. At no time did IPP International UG upload Plaintiff's copyrighted content to any other BitTorrent user.

23. IPP International UG connected, over a course of time, with Defendant's IP address for each hash value as listed on Exhibit A. The most recent TCP/IP connection between IPP and the Defendant's IP address for each file hash value listed on Exhibit A is included within the column labeled Hit Date UTC. UTC refers to Universal Time which is utilized for air traffic control as well as for computer forensic purposes.

24. An overview of the Copyrights-in-Suit, including each hit date, date of first

publication, registration date, and registration number issued by the United States Copyright Office is set forth on Exhibit B.

25. Plaintiff's evidence establishes that Defendant is a habitual and persistent BitTorrent user and copyright infringer.

Miscellaneous

26. All conditions precedent to bringing this action have occurred or been waived.

27. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

COUNT I
Direct Infringement Against Defendant

28. The allegations contained in paragraphs 1-27 are hereby re-alleged as if fully set forth herein.

29. Plaintiff is the owner of the Copyrights-in-Suit, as outlined in Exhibit B, each of which covers an original work of authorship.

30. By using BitTorrent, Defendant copied and distributed the constituent elements of each of the original works covered by the Copyrights-in-Suit.

31. Plaintiff did not authorize, permit or consent to Defendant's distribution of its works.

32. As a result of the foregoing, Defendant violated Plaintiff's exclusive right to:

- (A) Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;
- (B) Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;

(C) Perform the copyrighted works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the works' images in any sequence and/or by making the sounds accompanying the

works audible and transmitting said performance of the works, by means of a device or process, to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform); and

(D) Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works nonsequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of "publically" display).

33. Defendant's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works;

(B) Order that Defendant delete and permanently remove the digital media files relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;

(C) Order that Defendant delete and permanently remove the infringing copies of the works Defendant has on computers under Defendant's possession, custody or control;

(D) Award Plaintiff statutory damages per infringed work pursuant to 17 U.S.C. § 504 (a) and (c);

(E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and

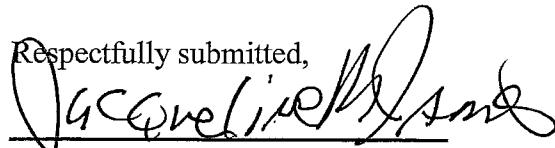
(F) Grant Plaintiff any other and further relief this Court deems just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

By:

Respectfully submitted,


Jacqueline M. James, Esq. (1845)

The James Law Firm, PLLC

445 Hamilton Avenue

Suite 1102

White Plains, New York 10601

T: 914-358-6423

F: 914-358-6424

E-mail: jjameslaw@optonline.net

Attorneys for Plaintiff

File Hashes for IP Address 66.108.172.193

ISP: Time Warner Cable**Physical Location:** New York, NY

Hit Date UTC	File Hash	Title
01/23/2015 03:51:50	01AF2113D08B27E0334B20D67A28D1F843188F1D	Fucking Ballerinas
01/16/2015 03:03:12	0CE43CB65853A50C33034EDC631879F5A100E59D	Back For More
01/16/2015 02:24:34	3262E9F8EBFFF144108A10A548E7BC1B59CF54F1	The Rich Girl Part #2
01/16/2015 02:18:11	E9975301EFA94D93357DF717F4D47DDEA2126408	Love From USA
01/15/2015 12:15:34	0B6086B22F3C9BB38F9C634E277D8031B60962F9	The Secretary
01/15/2015 05:50:59	549109924553BDE10D628E1B7466B4FFCAE0190B	Introducing Maya
12/27/2014 23:57:15	6A718635C51CFD893B8148460E6CF1EA48C5D0BA	Tease Me Please Me
12/27/2014 23:56:34	19F08822EFE1CF3134D323B75C900D57B3B5311B	I Want You To Want Me
12/27/2014 23:48:39	DE24C3F03A30E1E0E3D7A2B66D4885E4A80D7549	Still Mine
12/27/2014 23:14:43	71DE9AE218951831C62CEC6AE20ACCB53AA2E95	Watching
12/27/2014 23:05:17	84C5E1CE642BF837D12E74FFAC74845FD0667ED6	Under My Blanket
12/19/2014 03:57:14	5D11DD2AD557DB58C2E9F90507DF779F437CF56F	Light My Fire
12/19/2014 03:28:32	DBDC7EF8C3FB77A4F5D48B1993CCE308D288EEB9	Too Hot To Handle
12/15/2014 09:59:04	FFD85E36BE30E301B08167587513567B0B689D62	Blonde Perfection
12/15/2014 08:13:38	6A5F70B8397BFB7EE2F4B7A95D448C6C83F1523F	First Time
11/29/2014 01:56:16	21C115FB34216589DFB3D178B60FDE21C242F47C	Forever You Part #1
11/29/2014 01:32:39	AF1D5CC6B9AF1905AA32B15F92E5EB4C1189781F	Fuck Me More
11/29/2014 01:25:27	624BC8A5EE848FF4C44FF553DDE409AA26543955	Cum In Get Wet
11/29/2014 01:11:42	D2CD93D4D495BC086BCE93073D261E956A2434AB	Tight and Wet

Total Statutory Claims Against Defendant: 19

Copyrights-In-Suit for IP Address 66.108.172.193**ISP:** Time Warner Cable**Location:** New York, NY

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Fucking Ballerinas	PA0001928404	01/17/2015	01/19/2015	01/23/2015
Back For More	PA0001928427	12/31/2014	01/19/2015	01/16/2015
The Rich Girl Part #2	PA0001762808	11/16/2011	11/30/2011	01/16/2015
Love From USA	PA0001928430	01/03/2015	01/19/2015	01/16/2015
The Secretary	PA0001928397	01/09/2015	01/19/2015	01/15/2015
Introducing Maya	PA0001928429	01/05/2015	01/19/2015	01/15/2015
Tease Me Please Me	PA0001926095	12/20/2014	12/29/2014	12/27/2014
I Want You To Want Me	PA0001925335	12/06/2014	12/10/2014	12/27/2014
Still Mine	PA0001925346	12/04/2014	12/10/2014	12/27/2014
Watching	PA0001926090	12/14/2014	12/29/2014	12/27/2014
Under My Blanket	PA0001925298	12/08/2014	12/10/2014	12/27/2014
Light My Fire	PA0001923961	11/28/2014	12/08/2014	12/19/2014
Too Hot To Handle	PA0001925345	12/02/2014	12/10/2014	12/19/2014
Blonde Perfection	PA0001926061	12/10/2014	12/29/2014	12/15/2014
First Time	PA0001926092	12/13/2014	12/29/2014	12/15/2014
Forever You Part #1	PA0001923965	11/23/2014	12/08/2014	11/29/2014
Fuck Me More	PA0001923957	11/22/2014	12/08/2014	11/29/2014
Cum In Get Wet	PA0001923948	11/26/2014	12/08/2014	11/29/2014
Tight and Wet	PA0001923176	11/19/2014	11/23/2014	11/29/2014

Total Malibu Media, LLC Copyrights Infringed: 19